



## **Texas Department of Insurance**

### **Division of Workers' Compensation**

Medical Fee Dispute Resolution, MS-48

7551 Metro Center Drive, Suite 100 • Austin, Texas 78744-1645

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## **MEDICAL FEE DISPUTE RESOLUTION FINDINGS AND DECISION**

### **GENERAL INFORMATION**

#### **Requestor Name and Address**

DALLAS COUNTY HOSPITAL  
PO BOX 660599  
DALLAS TX 75266-0599

#### **Respondent Name**

Dallas National Insurance Co

#### **Carrier's Austin Representative Box**

Box Number 19

#### **MFDR Tracking Number**

M4-11-1448-01

#### **MFDR Date Received**

January 4, 2011

### **REQUESTOR'S POSITION SUMMARY**

**Requestor's Position Summary:** "In regards to the above referenced account, we are requesting reconsideration of the Implants invoices for \$1,170.00 based on Texas Department of Insurance division of Worker's Comp Rule 134.403 Hospital Fee Guideline Outpatient, 130% OF Medicare facility specific reimbursement amount if any applicable outliner payment."

**Amount in Dispute:** \$1,170.00

### **RESPONDENT'S POSITION SUMMARY**

**Respondent's Position Summary:** "The EOBs provided herein demonstrate the Responding party reimbursed the Requesting Party at both the Contract Rate and the State Fee Guidelines and the customary or usual guidelines."

**Response Submitted by:** Lewis & Backhaus, PC, 14160 Dallas Parkway 400, Dallas, Texas 75254

### **SUMMARY OF FINDINGS**

| Date(s) of Service | Disputed Services            | Amount In Dispute | Amount Due |
|--------------------|------------------------------|-------------------|------------|
| June 15-16, 2010   | Outpatient Hospital Services | \$1,170.00        | \$1,170.00 |

### **FINDINGS AND DECISION**

This medical fee dispute is decided pursuant to Texas Labor Code §413.031 and all applicable, adopted rules of the Texas Department of Insurance, Division of Workers' Compensation.

#### **Background**

1. 28 Texas Administrative Code §133.307 sets out the procedures for resolving medical fee disputes.
2. 28 Texas Administrative Code §134.403, titled *Hospital Facility Fee Guideline – Outpatient*, sets out the reimbursement guidelines for facility services provided in an outpatient acute care hospital.
3. The services in dispute were reduced/denied by the respondent with the following reason codes:

- 16 – Claim/service lacks information which is needed for adjudication.
- 96 – Non-covered charges(s).

- W1 – Workers Compensation State Fee Schedule Adjustment.

## **Issues**

1. What is the applicable rule for determining reimbursement for the disputed services?
2. What is the recommended payment amount for the services in dispute?
3. Is the requestor entitled to reimbursement?

## **Findings**

1. This dispute relates to facility services performed in an outpatient hospital setting with reimbursement subject to the provisions of 28 Texas Administrative Code §134.403, which requires that the reimbursement calculation used for establishing the maximum allowable reimbursement (MAR) shall be the Medicare facility specific amount, including outlier payment amounts, determined by applying the most recently adopted and effective Medicare Outpatient Prospective Payment System (OPPS) reimbursement formula and factors as published annually in the Federal Register with the application of minimal modifications as set forth in the rule. Per §134.403(f)(1), the sum of the Medicare facility specific reimbursement amount and any applicable outlier payment amount shall be multiplied by 200 percent, unless separate reimbursement of implantables is requested in accordance with subsection (g). Subsection 134.403(g)(1) requires that a provider billing separately for an implantable shall include with the billing a certification that the amount billed represents the actual cost (net amount, exclusive of rebates and discounts) for the implantable. Although separate reimbursement for implantables was requested, review of the submitted documentation found no such certification of the actual cost. The Division concludes that the facility has not requested separate reimbursement of implantables in accordance with subsection (g); therefore, separate reimbursement of implantables cannot be recommended. The applicable rule for reimbursement is §134.403(f)(1)(A). Accordingly, the Medicare facility specific reimbursement including outlier payments shall be multiplied by 200 percent.
2. Under the Medicare Outpatient Prospective Payment System (OPPS), each billed service is assigned an Ambulatory Payment Classification (APC) based on the procedure code used, the supporting documentation and the other services that appear on the bill. A payment rate is established for each APC. Depending on the services provided, hospitals may be paid for more than one APC per encounter. Payment for ancillary and supportive items and services, including services that are billed without procedure codes, is packaged into payment for the primary service. A full list of APCs is published quarterly in the OPPS final rules which are publicly available through the Centers for Medicare and Medicaid Services (CMS) website. Reimbursement for the disputed services is calculated as follows:
  - Procedure code L8610 has a status indicator of N, which denotes packaged items and services with no separate APC payment; payment is packaged into the reimbursement for other services, including outliers.
  - Procedure code 71010 has a status indicator of X, which denotes ancillary services paid under OPPS with separate APC payment. These services are classified under APC 0260, which, per OPPS Addendum A, has a payment rate of \$44.90. This amount multiplied by 60% yields an unadjusted labor-related amount of \$26.94. This amount multiplied by the annual wage index for this facility of 0.9731 yields an adjusted labor-related amount of \$26.22. The non-labor related portion is 40% of the APC rate or \$17.96. The sum of the labor and non-labor related amounts is \$44.18. The cost of these services does not exceed the annual fixed-dollar threshold of \$2,175. The outlier payment amount is \$0. The total Medicare facility specific reimbursement amount for this line is \$44.18. This amount multiplied by 200% yields a MAR of \$88.36.
  - Procedure code 65105 has a status indicator of T, which denotes a significant procedure subject to multiple-procedure discounting. The highest paying status T procedure is paid at 100%; all others are paid at 50%. This procedure is paid at 100%. These services are classified under APC 0242, which, per OPPS Addendum A, has a payment rate of \$2,629.61. This amount multiplied by 60% yields an unadjusted labor-related amount of \$1,577.77. This amount multiplied by the annual wage index for this facility of 0.9731 yields an adjusted labor-related amount of \$1,535.33. The non-labor related portion is 40% of the APC rate or \$1,051.84. The sum of the labor and non-labor related amounts is \$2,587.17. Per 42 Code of Federal Regulations §419.43(d) and Medicare Claims Processing Manual, CMS Publication 100-04, Chapter 4, §10.7.1, if the total cost for a service exceeds 1.75 times the OPPS payment and also exceeds the annual fixed-dollar threshold of \$2,175, the outlier payment is 50% of the amount by which the cost exceeds 1.75 times the OPPS payment. Per the OPPS Facility-Specific Impacts file, CMS lists the cost-to-charge ratio for this provider as 0.372. This ratio multiplied by the billed charge of \$10,565.00 yields a cost of \$3,930.18. The total cost of all packaged items is allocated proportionately across all separately paid OPPS services based on the percentage of the total APC payment. The APC payment for these services of \$2,587.17 divided by the sum of all APC payments is 97.35%. The sum of all packaged costs is \$2,111.75. The allocated portion of packaged costs is \$2,055.88. This amount added to the service cost yields a total cost

of \$5,986.06. The cost of these services exceeds the annual fixed-dollar threshold of \$2,175. The amount by which the cost exceeds 1.75 times the OPPS payment is \$1,458.51. 50% of this amount is \$729.26. The total Medicare facility specific reimbursement amount for this line, including outlier payment, is \$3,316.43. This amount multiplied by 200% yields a MAR of \$6,632.85.

- Procedure code J0690 is not a valid code or was not in effect on the date the services were provided. 28 Texas Administrative Code §134.403(d) requires that, for coding, billing, reporting, and reimbursement of covered health care, system participants shall apply Medicare payment policies in effect on the date a service is provided with any additions or exceptions as specified in the rule. Medicare payment policies require the accurate reporting of medical services using valid Healthcare Common Procedure Coding System (HCPCS) codes. Review of the submitted documentation finds that the procedure code reported is not recognized by Medicare as a valid HCPCS code for the date the services were rendered. This service does not meet the requirements of §134.403(d). Reimbursement cannot be recommended.
  - Procedure code J1100 has a status indicator of N, which denotes packaged items and services with no separate APC payment; payment is packaged into the reimbursement for other services, including outliers.
  - Procedure code J2370 has a status indicator of N, which denotes packaged items and services with no separate APC payment; payment is packaged into the reimbursement for other services, including outliers.
  - Procedure code J2710 has a status indicator of N, which denotes packaged items and services with no separate APC payment; payment is packaged into the reimbursement for other services, including outliers.
  - Procedure code J3010 has a status indicator of N, which denotes packaged items and services with no separate APC payment; payment is packaged into the reimbursement for other services, including outliers.
  - Procedure code J1170 has a status indicator of N, which denotes packaged items and services with no separate APC payment; payment is packaged into the reimbursement for other services, including outliers.
  - Procedure code J2405 has a status indicator of N, which denotes packaged items and services with no separate APC payment; payment is packaged into the reimbursement for other services, including outliers.
  - Procedure code J2250 has a status indicator of N, which denotes packaged items and services with no separate APC payment; payment is packaged into the reimbursement for other services, including outliers.
  - Procedure code J3010 has a status indicator of N, which denotes packaged items and services with no separate APC payment; payment is packaged into the reimbursement for other services, including outliers.
  - Procedure code J2270 has a status indicator of N, which denotes packaged items and services with no separate APC payment; payment is packaged into the reimbursement for other services, including outliers.
  - Procedure code 93005 has a status indicator of S, which denotes a significant procedure, not subject to multiple-procedure discounting, paid under OPPS with separate APC payment. These services are classified under APC 0099, which, per OPPS Addendum A, has a payment rate of \$26.56. This amount multiplied by 60% yields an unadjusted labor-related amount of \$15.94. This amount multiplied by the annual wage index for this facility of 0.9731 yields an adjusted labor-related amount of \$15.51. The non-labor related portion is 40% of the APC rate or \$10.62. The sum of the labor and non-labor related amounts is \$26.13. The cost of these services does not exceed the annual fixed-dollar threshold of \$2,175. The outlier payment amount is \$0. The total Medicare facility specific reimbursement amount for this line is \$26.13. This amount multiplied by 200% yields a MAR of \$52.26.
  - Procedure code G0378 has a status indicator of N, which denotes packaged items and services with no separate APC payment; payment is packaged into the reimbursement for other services, including outliers.
  - Procedure code G0378, date of service June 16, 2010, has a status indicator of N, which denotes packaged items and services with no separate APC payment; payment is packaged into the reimbursement for other services, including outliers.
3. The total allowable reimbursement for the services in dispute is \$6,773.47. The amount previously paid by the insurance carrier is \$5,320.51. The requestor is seeking additional reimbursement in the amount of \$1,170.00. This amount is recommended..

### **Conclusion**

For the reasons stated above, the Division finds that the requestor has established that additional reimbursement is due. As a result, the amount ordered is \$1,170.00.

## ORDER

Based upon the documentation submitted by the parties and in accordance with the provisions of Texas Labor Code Sections 413.031 and 413.019 (if applicable), the Division has determined that the requestor is entitled to additional reimbursement for the services involved in this dispute. The Division hereby ORDERS the respondent to remit to the requestor the amount of \$1,170.00, plus applicable accrued interest per 28 Texas Administrative Code §134.130, due within 30 days of receipt of this order.

### Authorized Signature

|           |  |                 |
|-----------|--|-----------------|
| _____     | _____                                  | October 7, 2013 |
| Signature | Medical Fee Dispute Resolution Officer | Date            |

### **YOUR RIGHT TO APPEAL**

Either party to this medical fee dispute may appeal this decision by requesting a contested case hearing. A completed **Request for a Medical Contested Case Hearing** (form **DWC045A**) must be received by the DWC Chief Clerk of Proceedings within **twenty** days of your receipt of this decision. A request for hearing should be sent to: Chief Clerk of Proceedings, Texas Department of Insurance, Division of Workers Compensation, P.O. Box 17787, Austin, Texas, 78744. The party seeking review of the MDR decision shall deliver a copy of the request for a hearing to all other parties involved in the dispute at the same time the request is filed with the Division. **Please include a copy of the *Medical Fee Dispute Resolution Findings and Decision* together with any other required information specified in 28 Texas Administrative Code §148.3(c), including a **certificate of service demonstrating that the request has been sent to the other party.****

**Si prefiere hablar con una persona en español acerca de ésta correspondencia, favor de llamar a 512-804-4812.**